IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 9TH MARCH 2007 / 18TH PHALGUNA 1928

WP(C).No. 7976 of 2007(Y)

OS.248/2006 of SUB COURT, PATHANAMTHITTA

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PETITIONERS:

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1. P.J.PAULOSE, S/O.JOSEPH, AGED 51 YEARS, RESIDING AT 8/231 OLICKAL HOUSE, THENGODE, KAKKANAD, COCHIN-682 030.

2. CARMEL EDUCATIONAL TRUST, REPRESENTED BY ITS SECRETARY, P.J.PAULOSE, SUIT NO.30/663 ADOOR TOWERS, ADOOR 691 523.

3. CARAMEL ENGINEERING COLLEGE REPRESENTED BY ITS MANAGING DIRECTOR, P.J.PAULOSE, PERUNAD - 689 711, PATHANAMTHITTA DISTRICT.

BY ADV. SRI.BABY ISSAC ILLICKAL

RESPONDENTS:

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1. GRACY BABU THOMAS, W/O.LATE BABU P.THOMAS, AGED 54 YEARS, PADINJARE VEEDU, KANNAMKODE, ADOOR, PATHANAMTHITTA-691 523.

2. JOSE THOMAS, S/O.THOMAS AGED 49 YEARS, PADINJARE VEETTIL, KANNAMKODE, ADOOR, PATHANAMTHITTA-691 523.

3. FRUDDY BABU THOMAS, S/O.LATE BABU P.THOMAS, AGED 28 YERAS, PADINJARE VEEDU, KANNAMKODE, ADOOR, PATHANAMTHITTA

4. JUDY BABU THOMAS,
S/O.LATE BABU P.THOMAS, AGED 26 YEARS,
PADINJARE VEEDU, KANNAMKODE, ADOOR,
PATHANAMTHITTA-691 523.

5. RIJO THOMAS JOSE,
S/O.JOE THOMAS, AGED 22 YEARS,
PUTHANPURACKAL PADINJARE VEEDU
KANNAMKODE, ADOOR, PATHANAMTHITTA-691 523.

6. REENA JOSE THOMAS,
W/O.JOSE THOMAS, AGED 41 YEARS,
PUTHANPURACKAL PADINJARE VEEDU,
KANNAMKODE, ADOOR, PATHANAMTHITTA-691 523.

7. ANNA JOSE @ RAJI JOSE D/O.REENA JOSE,
AGED 19 YERS, PADINJARE VEEDU KANNAMKODE,
ADOOR, PATHANAMTHITTA-691 523.

8. LISSY POULOSE, W/O.P.J.PAULOSE,
AGED 50 YEARS, 5/255, OLICKAL HOUSE,
THENGOILE, KAKKANAD, COCHIN-682 030.

9. ROSHINI PAUL JOSEPH, D/O.LISSY PAULOSE,
AGED 24 YEARS, 5/255, OLICKAL HOUSE,
THENGODE, KAKKANAD, KOCHI-682030.

10. ROHINI PAUL JOSEPH D/O.LISSY PAULOSE,
AGED 16 YEARS, 5/255, OLICKAL HOUSE,
THENGODE, KAKKANAD, KOCHI- 682 030.

11. INDIAN OVERSEAS BANK, INDU INTERNATIONAL
BUILDING COLLEGE ROAD, PATHANAMTHITTA-689 645.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.P.BALACHANDRAN, J.

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W.P.(C)NO.7976 OF 2007

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Dated this the 9th day of March 2007

JUDGMENT

The plaintiffs in O.S.248/06 on the file of Sub Court, Pathanamthitta are the petitioners. Along with the suit they filed I.A.1622/2006 for an interim injunction. The court below ordered notice and posted the case to 27.1.2007. It is submitted that a petition to advance the hearing of the suit and the injunction petition was filed on 15.12.2006 and that was dismissed on 1.1.2007. Obviously when notice was ordered on injunction petition and the suit and the injunction petition are posted to 27.1.2007, the posting could not have been advanced. But the grievance of the petitioner is that on 27.1.2007 all counter petitioners entered appearance and filed counter but hearing of the injunction application was adjourned to 13.3.2007 along with the suit and though the petitioners moved I.A.137/07 on 9.2.2007 to advance the hearing of the injunction application that I.A. also was dismissed on 9.2.2007.

2. If, as is submitted by counsel for the petitioners, the respondents had entered appearance and filed counter there is

no justification for the court below in refusing to advance hearing and have the injunction matter heard when it is submitted that the matter is urgent. The position would be different, if the submission made is not true to facts.

3. In the result, I direct the court below to advance hearing of I.A.1622/06 and to pass appropriate orders thereon within three weeks from the date on which a copy of this judgment is received by him provided the counter petitioners in the said I.A. have entered appearance and filed counter as is submitted by the counsel for the petitioners. The petitioners are at liberty to produce a copy of this judgment before the Sub Judge, Pathanamthitta to enable him to comply with the above directions at the earliest.

This writ petition is disposed of with the above direction.

K.P.BALACHANDRAN, JUDGE

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